

HOUSE BILL 798  
By Jackson

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, relative to the "Sexual Offender Registration and Monitoring Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 39, is amended by adding the following as an appropriately numbered new section:

(a) The general assembly finds and declares that:

(1) Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or commitment, and protection of the public from these offenders is a paramount public interest;

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual offenses collected pursuant to this chapter to allow members of the public to adequately protect themselves and their children from these persons;

(3) Persons convicted of these sexual offenses have a reduced expectation of privacy because of the public's interest in public safety;

(4) In balancing the offenders' due process and other rights against the interests of public security, the general assembly finds that releasing information about sexual offenders under the circumstances specified in this section will

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further the primary government interest of protecting vulnerable populations from potential harm;

(5) The registration of sexual offenders and the public release of specified information about sexual offenders will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of sexual offenders and for the public release of specified information regarding sexual offenders. This policy of authorizing the release of necessary and relevant information about sexual offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive; and

(7) The general assembly also declares, however, that in making information available about certain sexual offenders to the public, it does not intend that the information be used to inflict retribution or additional punishment on any such sexual offender. While the general assembly is aware of the possibility of misuse, it finds that the dangers to the public of nondisclosure far outweigh the risk of possible misuse of the information. The general assembly is further aware of studies in Oregon and Washington indicating that community notification laws and public release of similar information in those states have resulted in little criminal misuse of the information and that the enhancement to public safety has been significant.

(b)

(1) By June 1, 1997, the Tennessee bureau of investigation shall convert the information contained on all sexual offender registration/monitoring forms, verification/monitoring forms and acknowledgment forms compiled and maintained pursuant to this chapter to a format that permits such information to be placed on the Internet and accessed by users of the Internet. The information made available for Internet access shall not include the sexual offender's street address and criminal history other than the specific crimes for which the offender was required to register.

(2) By July 1, 1997, the bureau shall place the information prepared pursuant to subpart (1) of this subsection on the Internet's Tennessee home page. This information shall become a part of the Tennessee Internet Criminal Information Center when such Center is created within the bureau.

(c)

(1) By July 1, 1997, the Tennessee bureau of investigation shall establish and operate a toll-free "1-800" telephone number, to be known as the "Tennessee Internet Criminal Information Center Hotline", that members of the public may call and inquire whether a named individual is listed among those who have registered as sexual offenders as required by this chapter. The caller shall furnish his or her first name, middle initial, and last name. The bureau shall ascertain whether a named person reasonably appears to be a person so listed and shall provide the caller with the information contained on the offender's registration/monitoring form, verification/monitoring form and acknowledgment form. Provided, however, the bureau shall not disclose the street address or criminal history of a sexual offender listed, except to disclose the ZIP Code area in which the offender resides and to describe the specific crimes for which the registrant was required to register.

(2) The bureau shall decide whether the named person reasonably appears to be a registered sexual offender based upon information provided by the caller that shall include:

(A) An exact street address, including apartment number, social security number, Tennessee driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or

(B) Any combination of at least six (6) of the characteristics listed in subpart (A) if an exact birth date or address is not available.

If three (3) of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address or relation to the registrant shall be excluded by the department.

(3) When the Tennessee Internet Criminal Information Center is created within the bureau and becomes operational, a caller, using the same procedure set out in this subpart, may also make inquiry as to any other information compiled for and maintained in such Center.

(d)

(1) By July 1, 1997, the Tennessee bureau of investigation shall prepare a CD-ROM or other electronic medium containing the information on the registration/monitoring form, verification/monitoring form and acknowledgment form of all sexual offenders required to register pursuant to this chapter.

Provided, however, the sexual offender's street address and criminal history other than the specific crimes for which the offender was required to register shall be omitted from such CD-ROM or other electronic medium. The CD-ROM or

other electronic medium so prepared shall be distributed on a quarterly basis to the sheriff's office of each county, municipal police departments of cities with a population of more than 100,000 according to the 1990 census of population or any subsequent census, the department of safety, each district attorney general's office and any other law enforcement agency of state or local government requesting such information. Such law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the bureau for a yearly subscription fee the amount of which shall be determined by the bureau. The bureau, the sheriff's offices, and the municipal police departments of cities with a population of more than 100,000 shall make and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the following:

(A) The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto;

(B) The applicant shall provide identification in the form of a Tennessee driver license or Tennessee identification card, showing the applicant to be at least 18 years of age;

(C) The applicant shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium; and

(D) The applicant shall sign a statement, on a form provided by the bureau, stating that the applicant is not a registered sexual offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from

sexual offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(2) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(3) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(4) As soon as practicable, the bureau shall in the same manner create a CD-ROM or other electronic mediums containing other information compiled for and maintained in the Tennessee Internet Criminal Information Center when it is created within the bureau. Such CD-ROM or other electronic mediums containing such information shall be distributed in the same manner as set out in this subsection and may be accessed by the public using the procedure set out in this subsection.

(e) The Tennessee bureau of investigation shall have the authority to promulgate any necessary rules to implement and administer the provisions of this section. Such rules shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. Tennessee Code Annotated, Section 40-39-103, is amended by inserting the following between the first and second sentences:

A person who is placed on probation or parole in another state for an offense that would be a sexual offense in this state and who is residing in this state pursuant to the Compact for Out-of-State Supervision codified in Tennessee Code Annotated, Title 40, Chapter 28, Part 4, shall be subject to the same registration and monitoring requirements of this chapter as a person placed on probation or parole for a sexual offense in this state.

SECTION 3. Tennessee Code Annotated, Section 40-39-106, is amended by deleting subsection (c) and substituting instead the following:

(c) Except as provided in Section 1 of this act, information contained on sexual offender registration/monitoring forms, verification/monitoring forms, and acknowledgment forms shall be public information, and such information shall be open for inspection by members of the public as provided in Section 1 of this act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to all information made public by the provisions of this act that is in the possession of the Tennessee bureau of investigation on this act's effective date as well as any such information received and maintained by the bureau after its effective date.